

State of South Dakota

EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

463Q0589

HOUSE BILL NO. 1158

Introduced by: Representatives Cutler, Krebs, and Lust and Senators Heidepriem, Dempster,
and Gray

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to private placement
2 policies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-11-1 be amended to read as follows:

5 58-11-1. Premium is the consideration for insurance by whatever name called. Any
6 assessment, or any membership, policy, survey, inspection, service, or similar fee or other
7 charge in consideration for an insurance contract is deemed part of the premium. For a private
8 placement policy, with the consent of the insurer, premium may be in the form of assets to be
9 held by the insurer in a separate account, as long as the fair value of the assets are independently
10 verified at the time of receipt by the insurer. However, the premium for title insurance shall be
11 the rates filed and approved in § 58-25-7.

12 Section 2. That § 58-15-15 be amended to read as follows:

13 58-15-15. There shall be a provision that after three full years' premiums have been paid and
14 after the policy has a cash surrender value and while no premium is in default beyond the grace
15 period for payment, the insurer shall advance, on proper assignment or pledge of the policy and



1 on the sole security thereof, an amount not to exceed the loan value of the policy. However, in
2 the case of a private placement policy, the obligation of the insurer to advance the loan value
3 of the policy, or any portion of the loan value, is subject to the liquidity of separate account
4 assets comprising such loan value, and the insurer shall advance the loan value of the policy,
5 or any portion of the loan value, as and when the separate account assets ~~comprising such loan~~
6 ~~value~~ from which the loan is to be made, can be, by their respective terms, converted to cash.

7 Section 3. That § 58-15-17 be amended to read as follows:

8 58-15-17. In the case of policies issued on or after the operative date specified in § 58-15-42,
9 the loan value referred to in § 58-15-15 shall be the cash surrender value at the end of the
10 current policy year as required by § 58-15-33. The policy shall reserve to the insurer the right
11 to defer the granting of a loan, other than for the payment of any premium to the insurer, for six
12 months after application ~~therefor of the loan~~. For ~~policies where the cash surrender value~~
13 ~~pursuant to § 58-15-33 is in excess of one million dollars~~ any private placement policy, the loan
14 value shall be equal to the portion of the cash surrender value that can immediately be converted
15 to cash, pursuant to the policyholder's consent. ~~However, in the case of a~~ A private placement
16 policy, ~~the policy~~ may reserve to the insurer the right to defer the granting of a loan, or ~~portions~~
17 ~~thereof~~ any portion of the loan, until the policy separate account assets, ~~or portions thereof,~~
18 ~~comprising such loan~~ from which the loan is to be made, can be, by their respective terms,
19 converted to cash.

20 Section 4. That § 58-15-26 be amended to read as follows:

21 58-15-26. There shall be a provision that when a policy becomes a claim by the death of the
22 insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option,
23 surrender of the policy or proof of the interest of the claimant, or both. If an insurer shall specify
24 a particular period prior to the expiration of which settlement shall be made, such period may

1 not exceed two months from the receipt of such proof. For ~~policies where the cash surrender~~
2 ~~value pursuant to § 58-15-33 is in excess of one million dollars at the date of death,~~ any private
3 placement policy, settlement may be made in cash or, if allowed under the policy, by
4 distributing assets of the separate account to the claimant with the consent of the policyholder,
5 as long as the fair market value of the assets are independently verified at the time of
6 disbursement by the insurer. ~~However, in the case of a~~ In any private placement policy, the
7 obligation of the insurer to settle that portion of the policy attributable to separate account assets
8 is subject to the liquidity of such assets, and the insurer shall settle such portion of the policy
9 as and when such assets can be, by their respective terms, either converted to cash, which may
10 be later than two months after the insurer's receipt of due proof of death, or otherwise
11 dispersible by the insurer.

12 Section 5. That § 58-15-26.2 be amended to read as follows:

13 58-15-26.2. Interest payable pursuant to § 58-15-26.1 shall be computed from the date of
14 death of the insured until the date of payment and shall be at the rate of four percent per annum
15 or not less than the current rate of interest on death proceeds left on deposit with the insurer
16 under an interest settlement option, whichever rate is greater. For ~~policies where the cash~~
17 ~~surrender value pursuant to § 58-15-33 is in excess of one million dollars at the date of death,~~
18 ~~and with the consent of the policyholder~~ any private placement policy, the interest shall be
19 computed commencing the latter of sixty days succeeding the date of death of the insured or the
20 date proof of death has been received by the insurer in good order until the date of payment. In
21 any private placement policy, the obligation of the insurer to pay interest on that portion of the
22 policy attributable to separate account assets may only be computed as and when such assets are,
23 by their respective terms, either converted to cash or otherwise dispersible by the insurer.